

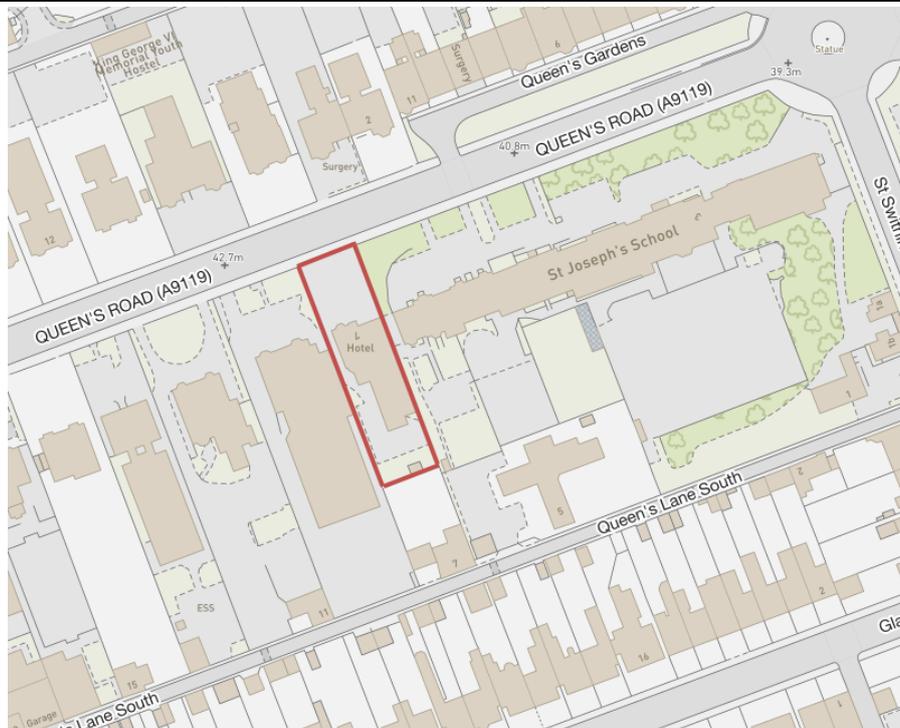


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 9th February 2023

Site Address:	Dutch Mill Hotel, 7 Queen's Road, Aberdeen, AB15 4NR
Application Description:	Erection of temporary marquee to the existing north car park to provide covered external area for outdoor dining and drinking space
Application Ref:	221514/DPP
Application Type	Detailed Planning Permission
Application Date:	16 December 2022
Applicant:	The Dutch Mill
Ward:	Hazlehead/Queen's Cross/Countesswells
Community Council:	Queen's Cross and Harlaw
Case Officer:	Lucy Greene



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RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The 'Dutch Mill' is a hotel with public bar and restaurant, it occupies a Category C listed late 19th century, detached two storey granite villa. A marquee occupies to the area to the front of the building; this would originally have been a garden but was used more recently as a car park associated with the hotel. The 'Dutch Mill' is located on Queens Road, which is lined with granite buildings of similar size, and lies within the Albyn Place / Rubislaw Conservation Area. To the east of the site is St Joseph's School, whilst to the west is an office building. There are residential properties to the south on Queens Lane South and opposite on Queens Road is a medical practice, offices and the former youth hostel now used as an office.

The front area has been used for outdoor seating (within marquee) for hotel / bar guests to use during the COVID period to allow social distancing and has been used post pandemic under a temporary permission. Prior to that was laid out to provide approximately fifteen (15no.) car parking spaces. The structure and use were implemented during Covid restrictions, with planning permission being sought in December 2021, in line with Council requirements. Temporary planning permission 211756/DPP was granted in November 2021, permitting the marquee to remain in place until the end of January 2023, following cessation of use on 9th January 2023. The marquee currently on site is 21m in length by 15m wide.

The site boundaries are formed by granite walls, with several mature trees adjacent and outside the site to the east and west; a granite base wall with black painted cast iron railings, two ornate lights and a post mounted hanging sign bounds the frontage. There are two openings for vehicular access, with one of these currently open for vehicles to access the rear of the site and the other providing pedestrian access directly into the marquee. Within the rear area of the plot, the building was extended in the past to provide a single storey of accommodation with limited parking and storage underneath. In the early stages of the pandemic, a smaller marquee (ten tables), with further outdoor seating on picnic bench type tables; was sited to the rear of the site, this has since been removed.

Relevant Planning History

Application Number	Proposal	Decision Date
211756/DPP	Erection of temporary marquee to the existing north car park to provide covered external area for outdoor dining and drinking space	04.11.2022 Status: Approved conditionally under to January 2023
130347	Extension to existing conservatory, extension of existing kitchen and formation of new terraced decking to match size of existing, revised toilet accommodation including a small extension to create a revised escape route.	28.06.2013 Status: Approved unconditionally
130337	Extension to existing conservatory, extension of existing kitchen and formation of new terraced decking to match size of existing, revised toilet accommodation including a small extension to create a revised escape route	27.06.2013 Status: Approved Unconditionally

APPLICATION DESCRIPTION

Description of Proposal

The application is for a temporary marquee that would replace the existing larger one standing to the front of the hotel. A three year permission is sought and the agent describes how the marquee would assist the business to slowly recover from the pandemic in the current economic situation, whilst also many customers still prefer to sit 'outdoors' in a more open area than is found in the hotel bar. The marquee would be 15m in length by 15m wide 6m shorter than the existing marquee and it would sit 6.15m back from the inner edge of the boundary wall to Queens Road, the plot frontage. Four trees within 1m by 1m by 800mm high black painted timber planter boxes would be installed just behind the boundary wall, so that they would be in front of the marquee when viewed from the street. Similar to existing, the marquee would have a pitched roof, with the ridge height indicated as 5m above finished floor level (the same height as the existing marquee). The ground rises slightly between the pavement on Queens Road and the hotel, but is essentially level. The marquee is proposed to have glazed sides with black timber cladding to the posts and black PVC to the roof gable and end sections of the roof covering with clear PVC to the central section of the roof covering. To the rear of the marquee is a small timber clad structure which contains the bar, this tucks into the recess created by the projecting gable section of the elevation of the granite hotel building and is lower in height than the marquee. The plans indicate the area to the rear of the hotel as remaining in use for car parking, with twelve (12no.) spaces, including one disabled space available.

Amendments

None.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RMVZ0NBZMCV00>

These are:

Noise Impact Assessment Revision 4 by Grosle Environmental Services
Policy, Design and Access Statement by Davidson Smith Architects

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because there are six objections.

CONSULTATIONS

ACC - Environmental Health – It is confirmed that there had been no complaints to the Environmental Health Service. The Service accepts the proposed development provided the critical noise and odour mitigation measures are applied, achieving at least an equivalent effect of those measures contained within the assessment. These must include:

a) Installation of a 100v line speaker system consisting of eight ceiling mounted speakers facing downward inside the marquee as detailed within sections 6.1.1 (and 5.4) and providing a maximum permitted music sound pressure level output of 71 dB(A) at one metre based on assessment conditions detailed within section 5.2.3.

b) Use of the marquee shall be prohibited between the hours of 22:00 hours and 12:00 Hours as detailed within section 2.1

This Service would also recommend an advisory note is attached to any planning permission advising a robust complaints procedure is established, including noise investigation protocol, pre-determined corrective actions and follow-up response to complainant.

ACC - Roads Development Management Team – No objections. Noted that site is within the inner city and lies within a controlled parking zone. It is also well served by footways and public transport. The Roads Team note that fifteen (15no.) parking spaces to the front would be lost and twelve (12no.) spaces would remain to the rear. There is also a disabled parking space to the rear of the building. It's noted that the marquee has been in place for some time during the pandemic to provide outdoor seating. The Roads Team considered that the site retained an acceptable level of parking and access. Access for waste storage have not been altered by the proposal. Clarification was sought on the route for a disabled customer from the parking into the premises.

Queen's Cross and Harlaw Community Council – Support the Dutch Mill in its temporary marquee application.

REPRESENTATIONS

Four hundred and seventy one (471no.) representations have been received.

Four hundred and sixty five (465no.) are in support and six (6no.) are objections.

The relevant matters raised in support are:

- a) The marquee is a good use of the space. Alternative uses of space (such as this) should be encouraged.
- b) The marquee is a non-intrusive addition to Queen's Road. Its colours would be in keeping with the Dutch Mill building.
- c) The proposal includes trees which match those outside St Joseph's and reflect the surrounding area visually.
- d) The marquee brings significant benefits to the area and city as a whole, it has been popular with locals for some time.
- e) The hospitality industry needs to be supported and allowed to flourish.
- f) This is one of few thriving businesses left in the city centre and the marquee should be allowed to remain to support that.
- g) The marquee is well run and professionally managed.
- h) Employment opportunities are created by the marquee, with numerous people currently employed.
- i) Aberdeen lacks quality venues for sports viewing/live entertainment and quality food. The Dutch Mill have upheld their great customer service standard and provided a new space for socialising. The atmosphere is also great and it is a dog friendly place. There are not many cool bars and nice places to eat and drink that are not chains.
- j) Removing the marquee would inhibit growth and investment.
- k) The marquee supports jobs and spending in the city including on local produce and there would be an impact on the economy if it were removed.
- l) Parking charges and the state of Union Street are driving people out of the city, whilst businesses owners, such as this one, are trying to build up the city.
- m) Marquee provides airy space for those who want to go out after COVID, but are uncomfortable being in a tightly packed bar.
- n) Noise impact on residents is not an issue as there is no music.

The matters raised in objection are:

- A) Existing and proposed marquees are unsightly.
- B) The marquee is plastic, of no architectural merit and is out of keeping with the character of the area, detracting from the street and building.
- C) The marquee is within a Conservation Area and in front of a category C listed building. It is built in low quality materials and is out of keeping with the character of the granite building.
- D) Loss of parking in the front garden area, which leads to illegal and anti-social parking on nearby roads. One objector cites five complaints to the Council in the last year about parking on Forest Road. Another objector cites problems with parents dropping children at school.
- E) Loss of disabled parking.
- F) Delivery vehicles need to stop on Queens Road, which has 'no waiting' restrictions, at certain times.
- G) Visibility for exiting vehicles is such that they need to be in a position half way across the pavement in order to move onto the road. If there are vehicles parked on the road, this problem is exacerbated.

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where making any determination under the planning acts, regard is to be had to the provisions of the Development Plan; and, that any determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

National Planning Policy and Guidance

National Planning Framework 4

National Planning Framework 4 (NPF4) was given final Parliamentary approval on 11th January 2023 and is anticipated to be adopted in February 2023. The weight to be given to NPF4 prior to its adoption is a matter for the decision maker. Although NPF4 has not yet been formally adopted it has now been approved by Parliament and is, therefore, now considered to be a significant material consideration in the assessment of planning applications. The relevant provisions of NPF4 that require consideration in terms of this application are -

Historic Assets and Places
Design, quality and place
Local living and 20 minute neighbourhoods
Health and safety
Community Wealth Building

Development Plan

Aberdeen City and Shire Strategic Development Plan (2020)

The current Strategic Development Plan for Aberdeen City and Shire was approved by Scottish Ministers in September 2020 and forms the strategic component of the Development Plan. No issues of strategic or cross boundary significance have been identified.

Aberdeen Local Development Plan (2017)

Section 16 (1)(a)(ii) of the Town and Country Planning (Scotland) Act 1997 requires that, where there is a current local development plan, a proposed local development plan must be submitted to Scottish Ministers within five years after the date on which the current plan was approved. From 21 January 2022, the extant local development plan will be beyond this five-year period. Therefore, where relevant, weight should be given to paragraph 33 of the Scottish Planning Policy (2014) which states: "Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration.

The following policies are relevant –

D1 – Quality Placemaking by Design

D4 – Historic Environment

B3 - West End Offices

T2 – Managing the Transport Impact of Development

T3 – Sustainable and Active Travel

T5 - Noise

R7 – Low and Zero Carbon Buildings, and Water Efficiency

Proposed Aberdeen Local Development Plan (2020)

The Report of Examination on the Proposed Aberdeen Local Development Plan 2020 (PALDP) was received by the Council on 20 September 2022. All the recommendations within the Report have been accepted and the modifications made to the PALDP were agreed by Full Council on 14 December 2022. The PALDP constitutes the Council's settled view as to the content of the final adopted ALDP and is now a material consideration in the determination of planning applications. The exact weight to be given to matters contained in the PALDP (including individual policies) in relation to specific applications will depend on the relevance of these matters to the application under consideration.

The following policies are relevant –

VC6 – West End Area

WB1 – Healthy Developments

WB3 - Noise

D1 – Quality Placemaking

D2 - Amenity

D6 – Historic Environment

Other Material Considerations

Chief Planner Letter: NPF4 – Stakeholder update, January 2023

Chief Planner Letter: Stakeholder update October 2022, including in relation to supporting business during the cost crisis.

Albyn Place / Rubislaw Conservation Area Character Appraisal

EVALUATION

Principle of Development

The site is zoned in the adopted LDP under Policy B3 – West End Office Area. The criteria within the policy relate principally to changes of use and expansion of office use within the area, however, they are relevant to this proposal as they highlight the need for proposals to respect the special historic and architectural character of the area and consider the relationship to the existing building. The marquee structure sits in front of the principal elevation of this Category C listed building, the proposal currently under consideration proposes that the marquee's frontage be set back by more than 6.5m into the site, which would reduce the visual impact within the streetscene when compared to the existing marquee. Mature trees to the east screen longer range views of the frontage of the building and much of the marquee. From the west, longer range views are partially screened by smaller evergreen trees. The clearest views of the building are from directly in front of the building and close oblique views. From these vantage points the marquee effectively conceals all of the lower part of the principal building with the first floor being partially visible. In doing so, the marquee has a detrimental impact on the character and setting of the listed building. This would be partially mitigated by the installation of trees in planters, which soften the visual impact and partially screen the marquee itself and by the viewers' awareness of the transient nature of the marquee.

Noise and protection of residential amenity is also a requirement of the policy and this is dealt with further below.

Policy VC6: West End Area is similar in relation to the proposed marquee to the policy noted above. It states that all developments must take into account existing uses and avoid undue conflict with adjacent land uses and amenity. In addition, all proposals must respect the special historic and architectural character of the West End. In considering the proposals for the temporary reduced size marquee, this should be compared to the site being used for car parking.

Policy does not permit the removal of landscaping within front garden areas, however, it is noted that in this instance the permanent use of the frontage area has for some time been car parking, whilst being currently occupied by the marquee. In considering the impact of the marquee, it is necessary to take into account the fact that the frontage area is hard surfaced and that car parking would be likely to resume when the marquee is removed. As can be seen on Google Streetview over the years the car park is well used and the visual impact of both the hard surface and the cars themselves is negative in terms of both the character of the listed building and the character of the conservation area. A vehicular route remains parallel and adjacent to the western site boundary for servicing and is used for access to the area to the rear.

In terms of impact on the listed building and conservation area a smaller marquee as proposed would still have an adverse impact as it obscures the lower part of the front of the building. It is visible from within the conservation area although trees and landscaping within adjacent plots provide some screening, especially outside the immediate environs of the site. The reduced footprint means that the marquee would be barely visible in longer distance views along Queens Road, due to trees. However, the marquee would have a negative impact on the setting of the listed building, the materials and type of structure are not of a type that would be appropriate on a permanent basis, and overall the structure is out of context with surrounding plots in the conservation area.

Policy for the West End does not indicate against the proposal in terms of use, however, the marquee would comply with the criteria relating to the historic environment as a long term feature.

Local Economy and Community Wealth Building

The Community Wealth Building policy in NPF4 encourages a model for building an economy at local, as well as wider levels. The outcomes of this are community and place benefits – to support

local employment and supply chains. Encouraging spending in local businesses and local job creation are advocated in Policy 25 within this section of the framework.

This also links in with the 'Local Living and 20 minute neighbourhood' section and Policy 15 whereby people can meet their needs within the area local to their home and easily accessible by walking or wheeling. The Dutch Mill itself would provide its service to the local residential area without the marquee, although it is noted that the marquee style venue including live viewing of sports events as one of the particular focuses of the marquee, is not something provided elsewhere within the locality.

The proposal would comply with these policies within the NPF4 and these points are raised by a large number of the writers of letters of support.

Historic Environment

The Dutch Mill lies within the Albyn and Rubislaw Conservation Area and the front garden area is a key feature in terms of impact on the setting of this category C listed building. NPF4 and Policy D4 in the LDP 2017 and D6 in the PLDP 2020 seek to protect the character of conservation areas. Proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations include the:

- i. architectural and historic character of the area;
- ii. existing density, built form and layout; and
- iii. context and siting, quality of design and suitable materials.

As noted above the proposal, whilst not prominent in views outside the immediate locality, would not fit with the architectural and historic character of the area, in terms of its location in the front garden area, its built form and materials.

It is also worth noting that the Policy, Design and Access statement and many supporters assert that revenue from the marquee is necessary for the business to successfully navigate the current economic situation and part of this on-going success is the assurance of the continued use and maintenance of the listed building. The Chief Planner Letter October 2022 deals with support for business during the current cost crisis. This recognises the end of the measures put in place for the post-pandemic period, and the difficulties currently experienced in particular, energy costs due to Russia's illegal invasion of Ukraine and due to the severe economic upheaval being faced. Scotland's planning and development community are asked to show resilience and flexibility in reacting positively to these major challenges. Support is sought for dealing quickly with applications including those that help businesses diversify and find alternatives that will help them through the cost crisis.

The Chief Planners letter of October 2022 would therefore lend some support to the point of view, of supporters. However, in this instance it is considered that this would not outweigh the harm to the historic character of the area, that would result from approval of the proposed marquee for a three year period as sought.

Design

Compared to the existing marquee, the footprint has been reduced so that there is a gap of more than 6.5m between the marquee and granite front wall, with trees introduced in between. The appearance of the structure has been improved by the black finish, including the timber coverings to the vertical posts. The walls are glazed, with the roof in block and clear PVC. This is considered to be a higher quality appearance, with the black colour being less intrusive within the streetscene and picking out colours used for paintwork on the hotel. The marquee is easily accessible from the street and provides activity within the area. However, in considering the context of Queens Road with the regular building line formed by substantial granite buildings with deep frontages (formerly gardens), the marquee would interrupt the formality of the street, with its form being out of keeping with the architecture and alien to the pattern of development within the conservation area. Overall ,

although it complies with some aspects of the design policy, the location, form and materials would indicate that the proposal is unacceptable in terms of design and placemaking.

Access and Parking

It is noted that there is space to provide parking for disabled customers. These customers would need to enter the premises via the marquee as there is no ramped or level access from the rear with quite significant changes in levels, however, for a temporary period this is acceptable.

The site is well connected by public transport and within walking distance of homes and other visitor accommodation. There are waiting restrictions on Queens Road preventing parking between 0800 and 1800 hours Monday to Saturday, the Roads Team have not objected to the proposal and given that the rear car park is relatively small it is considered that cars exiting the car park do not present an undue safety concern.

Noise

The marquee is located next to a busy road, with residential properties to the south and properties mainly in office use to the north and a school to the east. A noise impact assessment was undertaken and assessed the impact of voices, music and pre-recorded sports events on sensitive receptors, including the closest residential property. This indicated that levels would be acceptable with the equipment recommended and with the hours of operation assumed to be between midday and ten o'clock in the evening. This could be controlled by condition and it is therefore considered that the proposal would comply with policies relating to noise in the adopted and proposed plans.

Low and Zero Carbon Emissions

It is noted that this policy does not apply to structures with a life span of less than two years or are unheated.

The matters raised in representations are covered above.

Conclusion

It is noted that the use of the front area for seating enlivens the area and contributes to the vibrancy of the City. There is also an awareness that the marquee provides seating with greater ventilation which makes some customers more comfortable, which would comply with Policy WB1 in the Proposed Plan which relates to physical and mental wellbeing.

It is further noted that hospitality industry has experienced a period of difficulty and the presence of outdoor seating has assisted venues in continuing to operate, support for such proposals being set out in the Chief Planner's letter of 11th October 2022.

Notwithstanding the foregoing, significant and overriding weight is given to the consideration that the marquee does not comply with a number of policies relating to the impact on conservation areas and listed buildings as described above. Due to its position in the front curtilage and forward of the building line of properties along Queens' Road in a location that is alien to the pattern of development in the area the proposal is considered to have a detrimental impact on the setting of the associated listed building and the character of the conservation area. Furthermore approval of the proposal would set an undesirable precedent for similar development along Queen's Road and in similar locations throughout the City. the future of historic

It is therefore considered that it would be inappropriate to allow a marquee structure to remain on site for a further period of time.

Proposed Aberdeen Local Development Plan

The Report of Examination does not affect policies in a manner that is relevant to this application. Other than where mentioned above the relevant PALDP policies substantively reiterate those in the adopted ALDP.

If Members are minded to approve the application it is recommended that conditions are attached covering the following matters: temporary permission of length to be determined by Members, noise, as per Environmental Health comments, tree species and requirements that these are installed and replaced if damaged.

RECOMMENDATION

Refuse

REASON FOR RECOMMENDATION

Due to the location of the structure in the frontage area of the building, its form and proposed materials, it is considered that the proposal would have an unacceptable impact on the character of the Albyn/Rubislaw Conservation Area and the setting of the category C listed building. Approval of the proposal would set an undesirable precedent for similar development along Queen's Road and in similar locations throughout the City. It is concluded that these considerations outweigh the benefits to the business, local economy, and community. In the context of Covid-19 social distancing requirements being eased and hospitality venues returning to full capacity, it is considered that there is no longer any compelling justification for this development that can outweigh the identified conflict with the Development Plan.

The proposal would be contrary to Policy D4: Historic Environment and D1: Quality Placemaking and Design in the adopted Aberdeen Local Development Plan 2017 and to Policies D6: Historic Environment D1: Quality Placemaking in the Proposed Aberdeen Local Development Plan 2020 and the Revised Draft National Planning Framework 4, which is a significant material consideration.